

MAR 15 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : NINKOV, Dusan
SERIAL NO : 09/974,719
FILED : October 9, 2001
TITLE : COMPOSITIONS FOR INJECTION OR INTRAVENOUS
ADMINISTRATION FOR THE TREATMENT OF INTERNAL
INFECTION OR INFLAMMATION IN HUMANS AND ANIMALS

Grp./A.U. : 1614
Examiner : JAGOE, Donna A.
Conf. No. : 7844
Docket No. : P06882US01

AMENDMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

In response to the Office Action dated December 15, 2004, please amend the above-identified application as follows:

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☐ deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Mail Stop Non-Fee Amendment, Alexandria, VA 22313-1450.

Date:

3-15-05

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JANAE E. LEHMAN BELL

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578, 587, 160 USPQ 237, 244 (C.C.P.A. 1969); *In re Caldwell*, 319 F.2d 254, 256, 138 USPQ 243, 245 (C.C.P.A. 1963).

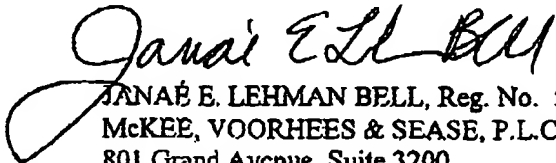
Furthermore, there is no teaching in either the '780 patent or Remington's Pharmaceutical Sciences that levels of isopropyl-o-cresol and isopropyl cresol claimed by Applicants are effective in treating mastitis in a cow (Example 14a), or tendon inflammation in horses (Example 27). Applicants remind Examiner that the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143. Thus, the claimed invention is not obvious. Therefore, Applicants respectfully request that the rejection to claims 10-11 under 35 U.S.C. §103 be withdrawn and reconsidered.

Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,


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